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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,566	03/30/2004	Susanne A. Paul	SIL.P0077	4126
30163	7590	02/09/2005	EXAMINER	
JOHNSON & ASSOCIATES PO BOX 90698 AUSTIN, TX 78709-0698			SHINGLETON, MICHAEL B	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/813,566	Applicant(s) PAUL ET AL.	
	Examiner Michael B. Shingleton	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Application/Control Number: 10/813,566
Art Unit: 2817

terminal
2/6/2005
rbs Page 2

DETAILED ACTION

The examiner has waited for additional preliminary amendments mentioned in Applications 10/812,853, 10/813,589 and 10/812,858 to be filed. However, these amendments are still not present. Thus it appears that no additional preliminary amendments are to be filed in the above noted applications. Thus the following supplemental action supercedes the previous office action mailed on or about 12-15-2004.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-58 of U.S. Patent No. 6,549,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application covers the same subject matter as that claimed in the '510 patent except that the claims of the instant application uses different wording. For example, the claims of the instant application recite that the switches enable or disable the switched current mirrors. But this is what the switches in the switched current mirrors must do.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Art Unit: 2817

Claims 1-20 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 10/812,853. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-20 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 10/813,589. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-20 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of copending Application No. 10/812,858. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10, 12-14, 16 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pearce et al. 5,973,368 (Pearce)

Figure 1H of Pearce discloses a power amplifier arrangement having a full bridge arrangement of transistors or switching devices in which the diagonal pairs meet the first and second switching devices along with the connections as claimed. As these diagonal pairs are switched at the same time the limitation of claim 7 is clearly met. Either one of the inductances 1.53.1 meets the inductance coupled between the first and second output nodes as clearly illustrated in Figure 1H. The load i.e. the speaker is clearly coupled to both of the above-mentioned nodes. The unmarked capacitors directly connected to the first and second nodes, which are also directly, connected to the inductances 1.53.1 along with their diodes directed connected to these capacitors clearly meet the first and second capacitor limitations.

Claim 5 appears to set forth a different “first capacitor” and either capacitor 1.54.1 or 1.53.4 will meet this limitation. The diodes mentioned above clearly provide capacitance and given applicant’s definition of a “capacitor” these diodes clearly meet the “capacitor” limitations of claims 8 and 9. The capacitors and at least one of the inductors 1.53.1 clearly meets the “transformation network” limitation of claim 13. Claim 14 is likewise very broad as the ground node forms the third node and clearly the capacitor 1.53.4 or 1.54.1 is coupled to the first and third nodes and either one of the inductors 1.53.1 is coupled to the second output node and the third node and the speaker, i.e. load is clearly connected to the third node as well. Applicant should take note that the term “coupled” is a very broad term that does not necessarily mean a direct connection without anything in between. Applicant should also note that ground can be considered a third supply voltage thereby making the inductors 1.53.1 being coupled between the first node and the third supply voltage. As it relates to the method steps claimed the above structure must provide for a reduction in the peak output voltage of an amplifier as the inductors 1.53.1 are connected between the two output nodes of the first and second switching devices. The capacitors 1.53.4 and 1.54.1 provides a filter function compared to a resonant function because of their connection to ground.

Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lau et al. 6,133,793 (Lau).

Figure 2 of Lau discloses the CMOS amplifier with the inductor 52 positioned between the two switching elements 46 and 48. Note column 2 around line 52 that describes the CMOS nature of the device. Note that 1800 MHz is larger than 800 MHz that clearly makes the device of Lau capable of operation in the cellular range. Column 2 around line 61 of Lau clearly recites the 2.75 volts. Because of the capacitor 50 the two switches are driven out of phase. Also note that only CMOS switching elements are shown and thus the structure of Lau meets the limitation that “all” switching elements are CMOS devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is (571) 272-1770. The examiner can normally be reached on Tues-Fri from 8:30 to 4:30. The examiner can also be reached on alternate Mondays. The examiner normally has the second Mondays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal, can be reached on (571)272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available

Application/Control Number: 10/813,566

Page 5

Art Unit: 2817

through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MBS

December 12, 2004

Michael B. Shingleton
MICHAEL B. SHINGLETON
PRIMARY EXAMINER
GROUP ART UNIT 2817